IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:27-1-2005

CORAM

THE HON'BLE MR.JUSTICE P.K. MISRA

WRIT PETITION NO:3339 OF 1998

S. Elamparithi

.... Petitioner

vs

1. Tamil Nadu Electricity Board
   rep by The Chairman,
   Tamil Nadu Electricity Board
   Anna Salai,
   Chennai-2

2. The Superintending Engineer
   Mettur Electricity Distribution
   Circle
   Mettur Dam - 636 401

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarifed Mandamus as stated therein.

For petitioner : Mr.R. Singaravelan
For respondents: Mr.V. Radhakrishnan

ORDER

The petitioner seeks for the issue of a Writ of Certiorarified Mandamus to call for the records on the file of the second respondent in connection with the order passed by him in his proceedings Ku.Aa.No.032754/Vu.Ni.A/Ni.Pi.2/E.Ni.Vu/Ka.Thani dated 7.1.98 and quash the same and direct the respondents to alter the date of birth of the petitioner from 4.9.58 to 4.9.59 in the Service Register of the petitioner.

2. Heard Mr.R. Singaravelan, learned counsel for the petitioner and Mr.V. Radhakrishan, learned counsel for respondents.

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3. The question raised relates to alteration of date of birth. The petitioner joined service in Tamil Nadu Electricity Board on 29.7.87. Originally, his date of birth was indicated as 4.9.58 in the Service Register. Such entry was made on the basis of Secondary School Leaving Certificate. Subsequently, the petitioner filed an application on 7.8.97 for correction of date of birth praying that his date of birth should be indicated as 4.9.59. Such application was made on the basis of the entry made in the Birth Certificate. This application for correction of date of birth has been rejected by Board of authorities on 7.1.98, only on the ground that the application had been made beyond five years, as contemplated under Regulation 110(b)(ii) of Tamil Nadu Electricity Board Service Regulations. The relevant portion is as follows:

> " 110(b)(ii) After a person has entered service under the Board, an application to alter the date of birth as entered in the records of the Board shall be entertained only if such application is made within five years of such entry into service. Such an application shall be made in the prescribed form to the authority competent to make an appointment to the post held by the applicant at the time of his application. Such an application, not supported by entries in Secondary School Leaving Certificate School, College or University records, birth extract from records of local bodies or military discharge certificates, shall be summarily rejected".

4. The learned counsel for the petitioner has submitted that since the application was supported by Birth Certificate from the record of local bodies, the Electricity Board should not have rejected such application, without conducting any enquiry, as contemplated under Regulation of 110(b)(ii) of Tamil Nadu Electricity Board Service Regulations. Such contention of the petitioner cannot be accepted. As per the specific provision contained in 110(b)(ii) of Tamil Nadu Electricity Board Service Regulations, such application for correction of date of birth can be entertained, only if such application is made within five years of entry into service. Latter part of Regulation makes it clear that even application is filed within stipulated time of five years, such application shall not be entertained , unless the application is supported by entries made in Secondary School Leaving Certificate School, College or University records, birth extract from records of local bodies or military discharge certificates. In other words, if an application is made beyond five years, such application is liable to be rejected, even though

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application is supported by any of the entries as stipulated under the latter part of the Regulation. This position is very clear from a bare reading of the provision itself.

5. Moreover, while considering similar position under the Tamil Nadu State and Subordinate Service Rules, Rule 49, the Division Bench of this Court has observed likewise, in a decision reported in 2002 (2) CTC 65 (The Government of Tamil Nadu, represented by its Secretary to Government, Finance (L.F), Department, Fort Saint George, Chennai-9 and Others vs J. Ramasamy and another).

6. In such view of the matter, the writ petition is liable to be dismissed and accordingly, the same is dismissed. No costs.

Sr

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Chairman,
   Tamil Nadu Electricity Board
   Anna Salai,
   Chennai-2

2. The Superintending Engineer
   Mettur Electricity Distribution
   Circle
   Mettur Dam - 636 401

+ 1 cc to Mr.V.Radhakrishnan, Advocate SR 3542

+ 1 cc to R.Singaravelan, Advocate SR 3333

W.P.No.3339/1998

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SR/14.2.2005

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